

## REMARKS

Claims 1-19, 21-29 and 31 were pending in the present application. In the above amendments, claims 1-7, 9-19, 21-29 and 31 are amended. New claims 32-35 are added. No new matter is added by way of the amendments or new claims. Therefore, after entry of the above amendments, claims 1-19, 21-29 and 31-35 are pending in this application for reconsideration. Applicants believe that the present application is now in condition for allowance, which prompt and favorable action is respectfully requested.

### **Summary of the Office Action**

In the Office Action, claims 21-29 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 1-19, 21-29, and 31 stand rejected under 35 U.S.C. § 112, second paragraph, for failing to point out and distinctly claim the subject matter which Applicants regard as their invention. Claims 1-19, 21-29, and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Published Patent Application No. 2003/0112952 to Brown *et al.* (Brown hereafter) in view of U.S. Patent No. 7,003,327 to Payne *et al.* (Payne hereafter) and further in view of U.S. Patent No. 6,304,906 to Bhatti *et al.* (Bhatti hereafter). These rejections are traversed in light of the foregoing amendments and the following remarks.

### **Response to Rejections Under 35 U.S.C. § 101**

Claims 21-29 are amended to implement the claim language suggested by the Examiner in the Office Action. *See* Office Action, page 3. Specifically, claims 21-29 as amended recite “A *non-transitory* computer-readable storage medium...” (emphasis added). Applicants thank the Examiner for suggesting a suitable claim amendment. Therefore, Applicants submit that with entry of the amendments, claims 21-29 are directed to patentable subject matter. Accordingly, Applicants respectfully request withdrawal of the rejections of claims 21-29 under 35 U.S.C. § 101.

### **Response to Rejections Under 35 U.S.C. § 112, Second Paragraph**

The Office Action asserts that claims 1, 10, 11, 21 are indefinite “because the claims do not clearly define the classification process for the incoming communication and it cannot be determined what types of connections are being classified for what type of communication request that is being identified and how the basis under which the processor is performing these

classification and the steps performed by the processor after the classification....” Office Action dated March 26, 2010, page 3.

The independent claims 1, 10, 11 and 21 are amended in response to these rejections. Specifically, claim 1 is amended to recite, *inter alia*,

A cellular telephone comprising:

...a memory, coupled to said processor, wherein the processor is configured to:

receive an attempted incoming communication connection;  
determine whether the attempted incoming communication can be  
*classified using identifying information of the attempted incoming  
communication connection;*

...classify the attempted incoming communication connection  
*using the identifying information* when it is determined that the incoming  
communication can be classified or when it is determined that a default  
response exists....

(emphasis added). Likewise, independent claims 10, 11 and 21 are amended to recite, *inter alia*, “determining whether the attempted incoming communication can be classified using identifying information of the attempted incoming communication connection” and “classifying the attempted incoming communication connection using the identifying information when it is determined that the incoming communication can be classified or when it is determined that a default response exists” or analogous elements. Therefore, Applicants submit that the amendments to the independent claims clarify that “attempted incoming communications are being classified” and that these attempted incoming communications are being classified “using identifying information.”

Support for the amendments to independent claims 10, 11 and 21, both in terms of antecedent basis and in terms of meaning, are provided in the specification. In particular identifying information is described at least in paragraph [0018] of the specification, which recites as examples “the classification of the incoming communication attempt is preferably by identifying the telephone number of a calling telephone...such as through the receipt of caller ID for the incoming telephone call. And for data communication, the classification occurs through the receipt of identity data...such as tag data received in initial frames of information.” Further, steps and determinations performed by the processor using identifying information in classification of incoming communications are explained at least in paragraphs [0022]–[0025], [0028] and FIG. 3 of the specification.

Applicants respectfully submit that amended claims 1, 10, 11 and 21 now particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Accordingly, Applicants respectfully request withdrawal of the rejections of claims 1, 10, 11 and 21 under 35 U.S.C. § 112, second paragraph. Further, since claims 2-9, 12-19, 22-29 and 31 all depend, directly or indirectly, from one of allowable base claims 1, 10, 11 and 21, and therefore encompass the same terminology and claim elements, Applicants submit that these claims are also clear and allowable for at least the same reasons. Accordingly, Applicants respectfully request withdrawal of the rejections of claims 2-9, 12-19, 22-29 and 31 under 35 U.S.C. § 112, second paragraph.

### **Response to Rejections Under 35 U.S.C. § 103(a)**

Claims 1-19, 21-29 and 31 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Brown in view of Payne, and further in view of Bhatti. Applicants respectfully submit that each of claims 1-19, 21-29 and 31 are patentable over the combination of Brown, Payne, and Bhatti, because none of Brown, Payne, and Bhatti teach or suggest all of the elements recited in the claims as amended, and because the alleged combination is improper under M.P.E.P. § 2143.01.

Independent claim 1 is amended to recite, *inter alia*,

A cellular telephone comprising:

...a memory coupled to said processor, wherein the processor is configured to:

...determine whether *the attempted incoming communication* can be classified using identifying information of the attempted incoming communication connection;

determine whether a default response exists when it is determined that the incoming communication cannot be classified using the identifying information;

classify the *attempted incoming communication* connection using the identifying information...

classify the *attempted incoming communication* connection based upon a classification by the user when it is determined that the user classified the incoming communication;

...determine whether there is a predetermined response to the *attempted incoming communication* connection based upon the classification, wherein the predetermined response establishes whether the attempted incoming communication will be able to connect with the user;

perform the predetermined response to the *attempted incoming communication* connection based upon the classification when it is determined that there is a predetermined response....

(Emphasis added). Likewise, claims 10, 11 and 21 are amended to recite analogous elements. Thus, the amended claims recite elements which allow a communication device to implement a predetermined response to either accept or reject a communication without actually completing the communication connection. *See, e.g.*, specification paragraphs [0007] to [0010]. The processing of the communication occurs on an attempted incoming communication, regardless of whether the communication is completed.

The Office Action asserts that Brown discloses “a cellular telephone comprising: having a processor...wherein the processor is operable to: classify the attempting incoming communication connection; and perform a predetermined response to the attempted incoming communication based upon a classification of the attempted incoming communication connection.” Office Action dated March 26, 2010, pages 4-5 (citations omitted). However, as explained in Applicants’ RCE and Response Under 37 C.F.R. § 1.114 dated February 8, 2010, Brown discloses methods and system for connecting callers that are implemented in a call switching center and *not* in cellular telephone processors.

The Office Action correctly states that Brown “fails to explicitly disclose that the processor is located at a cellular telephone.” Office Action dated March 26, 2010, page 5. To cure this deficiency, the Examiner cites Payne. *See Id.* Specifically, the Office Action asserts that since Payne discloses a “mobile device including the wireless communication interface coupled to a processor, and the memory coupled to the processor module for performing processing tasks to provide predetermined responses based on the incoming service requests” it would have been obvious for one of ordinary skill in the art at the time to “use the method of including a processor coupled to the memory and the client module for performing processing tasks in the cellular telephone as taught by the system of Brown et al.” *Id.* (citations omitted).

In addition, the Office Action correctly states that “both Brown and Payne fails [sic] to disclose the features of whether to classify or not to classify the incoming connection based on the identifying information in the connection request.” Office Action dated March 26, 2010, page 6. To cure this deficiency, the Office Action cites to Bhatti. *See Id.* Specifically, the Office Action asserts that Bhatti teaches a processor configured to “determine whether a user needs to classify the incoming communication when it is determined that the incoming communication cannot be classified using identifying information of the attempted communication connection”, to “request a user to classify the incoming communication and determine whether the user classified the incoming communication”, and to “classify the

attempted incoming communication connection based upon the user classification....” *Id.* at pages 6-7 (citing Bhatti, col. 3, ll. 17-52; FIGs. 1 and 5). Applicants respectfully disagree.

In contrast to the elements recited in the amended claims, the system disclosed in Bhatti does not provide for an individual user’s classification of incoming communications to that user. Bhatti teaches a data service system that “classifies the *access requests for a content site* located in a server of the data service system” by a user access request classification system that “allows *the data service system 20* to prioritize access requests...such that preferential treatments can be given to some of the users accessing the data service system.” Bhatti, col. 2, ll. 62-64; col. 3, ll. 59-62 (emphasis added). Thus, Bhatti does not disclose any classification or input by an individual user, but rather teaches a way for the data system to “handle potential overload conditions” or “provide better performance” by allowing “the data service system 20 to control when an access request will be accepted and processed.” Bhatti, col. 3, ll. 27-29 & 64-65. In sum, Applicants submit that Bhatti does not teach or suggest elements of “request a user to classify the incoming communication and determine whether the user classified the incoming communication” and/or “classify the attempted incoming communication connection based upon the user classification....” Therefore, regardless of whether Payne cures the stated deficiency of Brown, Applicants submit that the combination of Brown, Payne, and Bhatti does not teach or suggest each and every element recited in amended claims 1, 10, 12, and 21. Accordingly, Applicants respectfully request withdrawal of the rejections of claims 1, 10, 11 and 21 under 35 U.S.C. § 103(a).

Further, since claims 2-9, 12-29 and 31 depend, directly indirectly, from one of allowable base claims 1, 10, 11 and 21, Applicants submit that these claims are also allowable for at least the same reasons. Accordingly, Applicants respectfully request withdrawal of the rejections of claims 2-9, 12-29 and 31 under 35 U.S.C. § 103(a).

### **New Claims 32-35**

New claims 32-35 are supported at least by paragraphs [0023] and [0024] of the original specification. Since new claims 32-35 each depend directly from one of allowable base claims 1, 10, 11 and 21, Applicants respectfully submit that new claims 32-35 are allowable for at least the reasons discussed above with respect to amended claims 1, 10, 11, and 21.

## CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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